

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

EGGENWEILER, Hans-Michael et al.

Examiner: Celilia M. Jaisle

Serial No.: 10/518,503

Group Art Unit: 1624

Filed: December 20, 2004

Confirmation No.: 7857

Title: THIAZOLE DERIVATIVES AS PHOSPHODIESTERASE IV INHIBITORS

RESPONSE TO REQUIREMENT FOR RESTRICTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the requirement for restriction mailed April 6, 2007, Applicants hereby elect Group I, drawn to compounds formula I, and preparation thereof. The requirement for restriction is respectfully traversed.

First, even assuming the Office Action is correct, at page 2, where it argues that the "special technical feature" is the identities of various groups in formula I, is not understood how it can be argued that this "special technical feature" is not present in the other group, drawn to methods of employing the compound of formula 1, inasmuch as formula 1 is present in all the claims of these groups. Thus, on the reasoning advanced in the Office Action, it is clear that the requirement for restriction should be withdrawn inasmuch as unity of invention is present.

Second, it is submitted that the Office Action misinterprets the PCT Rule 13.2. PCT Rule 13.2, as explained in annex B of the administrative instructions under the PCT, states that, "in addition to an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the same product, and an independent claim for a use of the said product" ***shall be construed as having unity of invention***. These rules, adopted in 37 CFR §1.475, clearly mandate that the present application be not restricted. 37 CFR §1.475(b) states that a National Stage Application containing claims to different

categories of invention "will be considered to have unity of invention" if the claims are drawn only to one of various combinations of categories. One combination of category set forth us that discussed above, a product, a process specially adapted for the manufacture of the said product, and a use of the said product.

Accordingly, there is no legal basis to support the requirement for restriction, and withdrawal thereof is appropriate and is respectfully requested.

Respectfully submitted,

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JAS:cnk